

Johnston & Associates, LLC

2099 Pennsylvania Avenue, N.W., Suite 1000

Washington, D.C. 20006

Tel: (202) 659-8400 Fax: (202) 659-1340

August 3, 2003

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation in Nationwide Programmatic Agreement proceeding, WT Docket No. 03-128; FCC 03-125.

Dear Ms. Dortch:

On June 13, 2003, Ken Carleton (Vice Chairman, USET Culture and Heritage Committee) and Gregory Smith (Johnston & Associates), on behalf of the United South and Eastern Tribes, Inc. met with the following Commission staff members: Kris Monteif, Jeff Steinberg, Geoffrey Blackwell, Frank Stilwell and Amos Loveday.

The principal purpose of this meeting was not the draft Nationwide Programmatic Agreement cited above, but rather the negotiation of a memorandum of agreement between USET and the FCC, and a related "Best Practices" document on FCC consultation with USET tribes on matters related to cell tower construction. In the course of this meeting, however, we briefly discussed Part III of the draft Nationwide Programmatic Agreement, which concerns exclusions to the National Historic Preservation Act Section 106 review requirements. We presented our general position that the exclusions could not lawfully be applied to Indian tribes under the National Historic Preservation Act. We also discussed an exception, proposed by the Navajo Nation, to the exclusions provision, and explored its legality.

If you have any questions regarding this matter, please feel free to call.

Sincerely,

Gregory A. Smith

cc: Keller George
James T. Martin
Ken Carleton